

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

MAR 23 2020

David J. Bradley, Clerk of Court

Robert Alan Fratta, Petitioner	X	
v.	X	CIVIL ACTION No. 4:13-cv-03438
Lorie Davis, Respondent	X	

2nd AMENDMENT TO MOTION FOR RELIEF FROM JUDGMENT

Comes now the Petitioner, Robert Alan Fratta, and files this 2nd amendment to his DKTS 114-116 Rule 60(b) Motion For Relief from his unlawful judgment. Following is another "Error of Law" to be added and considered as II.A.2(k) and read as follows:

k) Allowed a severely material/fatal variance to stand between the indictment (which charges Fratta with shooting and killing someone while he committed burglary all alone) and the proof at trial (that Fratta did NOT shoot and kill anyone and did NOT commit any burglary, and was NOT even at the scene), and upheld Fratta's conviction on that severe material variance during a sufficiency of the evidence assessment. Such a material or fatal variance IS a legal insufficiency of the evidence and automatic grounds for ACQUITTAL in this appeal. (See Gollihar v. Texas, 46 S.W. 3d 243).

That concludes what needs to be amended into Fratta's DKTS 114-116 motion.

Submitted by:

Robert Alan Fratta

Polunsky Unit, #999189

3872 FM 350 South

Livingston, TX 77351

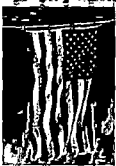
Mailed/Filed: 3/18/20



Robert A. Fratta
Polansky Unit, #999189
#672 AM 350 S.
Livingston, TX 77351

NORTH HOUSTON TX 77351

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5401 Bob Casey U.S. Courthouse

515 Rusk St.

Houston, TX

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